# 1. INTRODUCTION AND LIST OF COMMENTERS

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## 1.0 INTRODUCTION

This Final Environmental Impact Report (FEIR) contains public and agency comments received during the public review period of the Fairfax Conversion Project Draft Environmental Impact Report (DEIR), and Partially Recirculated DEIR, as well as the Timber Harvest Plan (THP) prepared for the project. This document has been prepared by the California Department of Forestry and Fire Protection (CAL FIRE), as lead agency, in accordance with the California Environmental Quality Act (CEQA) and its implementing Guidelines (Section 15132). This Chapter discusses the background of the DEIR and Partially Recirculated DEIR, organization of the Final EIR, and lists the comment letters received during the comment periods on both the EIR and the THP.

## 1.1 BACKGROUND

**Fairfax Conversion Draft EIR**

The Fairfax Conversion Project DEIR contains the following environmental analysis sections:

- Land Use;
- Air Quality;
- Biological Resources;
- Cultural Resources;
- Geology;
- Hydrology and Water Quality;
- Hazards;
- Transportation and Circulation;
- Noise; and
- Aesthetics.

CAL FIRE used several methods to solicit public input on the DEIR. These methods included publishing the Fairfax Conversion DEIR through the State Clearinghouse for a 60-day public review period from May 29, 2009 to July 28, 2009. In addition, a public comment meeting on the DEIR was held on June 27, 2009 at Horicon Elementary School.

As noted in the Notice of Availability (NOA) released for the DEIR by CAL FIRE on May 29, 2009, the DEIR and other project documents also were made available on the CAL FIRE Web Site at: http://www.fire.ca.gov/resource_mgt/resource_mgt_EPRP_PublicNotice.php.

In addition, the public was notified that the DEIR could be viewed at the following facilities during normal business hours, beginning Monday June 1st:

**CAL FIRE – Santa Rosa Office**

135 Ridgeway Avenue
Santa Rosa, CA 95402

**Horicon Elementary School**
Main Office
35555 Annapolis Road
Annapolis, CA 95412

**Santa Rosa Central Public Library**
Reference Counter
3rd and E Streets
Santa Rosa, CA 95404

**CAL FIRE - Sonoma-Lake-Napa Unit**
West Division Headquarters
2210 West College Avenue
Santa Rosa, 95401-4909

**California Forest Practice Rules - Timber Harvest Plan**

As noted in the NOA published on May 29, 2009, CAL FIRE must approve a Timber Harvest Plan (THP) prior to the commencement of timber operations for this project. The THP (THP # 1-09-058-SON) cannot be approved until the Timberland Conversion Permit (TCP) has been issued. Per CEQA, the timberland conversion and all subsequent permits are considered part of the same project. The THP associated with this conversion has a public comment period that is required pursuant to the California Forest Practice Act and Rules. Additional information about the THP review process was made available by CAL FIRE at: http://www.fire.ca.gov/ResourceManagement/THPReviewProcess.asp.

The public was informed by CAL FIRE that they could comment on either the Timberland Conversion and/or the Timber Harvesting Plan phases of the project. CAL FIRE will recognize all comments received as being comments on the overall project regardless of which office received them and regardless of which comment period was open at the time. All comments received prior to the close of the latest comment period will be considered prior to TCP or THP approval.

A total of 36 comment letters, including a public meeting transcript, were received during the open public comment period on the DEIR and Timber Harvest Plan (THP) from residents, State and local agencies, and organizations. In addition, written comments were provided specifically on the THP by the State agencies comprising the THP review team and during the pre-harvest inspection.

**Fairfax Conversion Partially Recirculated Draft EIR**

CAL FIRE prepared a Partially Recirculated Draft Environmental Impact Report to update two DEIR sections: Chapter 3.5, *Cultural Resources*; and Impact Discussion 4-3, *Cumulative Contribution to Global Climate Change*, in the *Cumulative Impacts* chapter. In response to comments, CAL FIRE has added some additional discussion and analysis to these two DEIR chapters, and while no new impacts were identified as a result, CAL FIRE decided to recirculate them separately from the original Draft EIR for a full 45-day period. This Partially Recirculated DEIR was circulated to the public for comment from March 14, 2011 to April 27, 2011. The same noticing procedures carried out for the original Fairfax Conversion DEIR, as described above, were carried out for the Partially

Recirculated DEIR with the additional mailing of the NOA to all of those individuals and agencies who commented on the original DEIR.

A total of eight comment letters were received from the public on the Partially Recirculated DEIR. As noted in the *Introduction* of the Partially Recirculated DEIR for the Fairfax Conversion Project, the recirculation of only "portions" of a draft EIR does not permit commenters to comment anew on topics not subject to a partial recirculation. CEQA Guidelines section 15088.5, subdivision (f)(2), provides:

> When the EIR is revised only in part and the lead agency is recirculating only the revised chapters or portions of the EIR, the lead agency may request that reviewers limit their comments to the revised chapters or portions of the recirculated EIR. The lead agency need only respond to (i) comments received during the initial circulation period that relate to chapters or portions of the document that were not revised and recirculated, and (ii) comments received during the recirculation period that relate to the chapters or portions of the earlier EIR that were revised and recirculated. The lead agency's request that reviewers limit the scope of their comments shall be included either within the text of the revised EIR or by an attachment to the revised EIR.

Pursuant to this provision, CAL FIRE directed that public comments must be restricted to the newly circulated information contained in the Partially Recirculated DEIR related to Cultural Resources, and specifically, within the Cumulative Impacts chapter, the subject of Climate Change – Impact Statement 4-3.

CAL FIRE is not obligated to respond to any new comments that are directed to the portions of the DEIR that were not revised and recirculated. Therefore, this Final EIR for the proposed project contains detailed responses to all comments made on the original DEIR and to all comments on the Partially Recirculated DEIR that are properly limited to the subjects of Cultural Resources and Climate Change.

## 1.2 Organization of the Final EIR

The Final EIR is organized into the following chapters:

**1. Introduction and List of Commenters**

Chapter 1 provides an introduction and overview of the document, describing the background and organization of the Final EIR. Chapter 1 also provides a list of the commenters that submitted letters in response to the Draft EIR.

**2. Revisions to the Draft EIR Text**

Chapter 2 summarizes changes made to the DEIR text either in response to comments or minor staff edits that do not change the intent or content of the analysis or the effectiveness of mitigation measures.

**3. Comments Received and Responses of the Lead Agency**

Chapter 3 presents all of the comments received, both in writing and orally, and responses to each individual comment. Each comment letter received has been numbered at the top and then bracketed to indicate how the letter has been divided into individual comments. Each comment is given a number with the letter number appearing first, followed by the comment number. For example, the first comment in Letter 1 would have the following format: 1-1. Comments received orally at the public hearing held on June 27, 2009 in Annapolis and memorialized in the hearing transcript are numbered and responded to in a similar manner.

In addition, comments, questions and recommendations received from the THP Review Team Agencies are provided along with the response prepared by the registered professional forester (RPF) for the project.

**4. Mitigation Monitoring Plan**

The Mitigation Monitoring Plan (MMP) in Chapter 4 includes a description of the requirements of CEQA. The intent of the MMP is to document the responsible entity and timing of adopted mitigation measures to facilitate their successful implementation.

## 1.3 List of Commenters

The following comment letters were received during the comment periods for the Fairfax Conversion Project DEIR and Partially Recirculated DEIR:

**COMMENT LETTERS SUBMITTED ON THE FAIRFAX CONVERSION DRAFT EIR**

**Agencies**

Letter 1 ..... Charles Armor, California Department of Fish and Game
Letter 2 ..... Cherie Blatt, North Coast Regional Water Quality Control Board
Letter 3 ..... Lisa Carboni, California Department of Transportation
Letter 4 ..... Pete Parkinson, County of Sonoma Permit and Resource Management Department
Letter 5 ..... Terry Roberts, Governor's Office of Planning and Research

**Organizations**

Letter 6 ..... Justin Augustine, Center for Biological Diversity
Letter 7 ..... Peter Baye (Affiliation - Friends of the Gualala River (FOGR)
Letter 8 ..... Terrance Fleming, Community Clean Water Institute
Letter 9 ..... Tom Gaman, East-West Forestry Associates, Inc.
Letter 10 ..... Richard Grassetti, Grassetti Environmental Consulting (Affiliation – FOGR)
Letter 11 ..... Jay Halcomb, Sierra Club, Redwood Chapter
Letter 12 ..... Patrick Higgins, Consulting Fisheries Biologist (Affiliation – FOGR)
Letter 13 ..... Miley Holman, Holman & Associates (Affiliation – FOGR), dated July 21, 2009

Letter 14 ..... Miley Holman, Holman & Associates (Affiliation – FOGR), dated December 23, 2009
Letter 15 ..... David Hope, Watershed Science Consultants (Affiliation – FOGR)
Letter 16 ..... Greg Kamman, Kamman Hydrology & Engineering (Affiliation – FOGR)
Letter 17 ..... Brother Tolbert McCarroll, Starcross Community
Letter 18 ..... Chris Poehlmann, Friends of the Gualala River (FOGR), dated July 14, 2009
Letter 19 ..... Chris Poehlmann, FOGR, dated July 26, 2009
Letter 20 ..... Chris Poehlmann, FOGR, dated July 28, 2009
Letter 21 ..... Peter R. Schmidt, University of Florida (Affiliation – FOGR)

**Individuals**

Letter 22 ..... Jamie Hall
Letter 23 ..... Dave Jordan
Letter 24 ..... Holly McCarroll
Letter 25 ..... Randall Sinclair

**Other**

Letter 26 ..... Draft EIR Public Hearing Transcript

**Letters Submitted after Close of 60-day CEQA Review Process, but within THP Review Period**

Letter 27 ..... Peter Baye

**COMMENT LETTERS SUBMITTED ON THE FAIRFAX CONVERSION TIMBER HARVEST PLAN**

**Organizations**

Letter 28 ..... Justin Augustine, Center for Biological Diversity
Letter 29 ..... Peter Baye (Affiliation - FOGR)
Letter 30 ..... Kyle Haines, THP Tracking Center
Letter 31 ..... Peter R. Schmidt, University of Florida (Affiliation – FOGR)

**Individuals**

Letter 32 ..... Jamie Hall
Letter 33 ..... Randall Sinclair
Letter 34 ..... Robin Wellman, dated June 1, 2009
Letter 35 ..... Robin Wellman, dated July 8, 2009
Letter 36 ..... Robin Wellman, dated July 15, 2009

**COMMENT LETTERS SUBMITTED ON THE PARTIALLY RECIRCULATED DRAFT EIR**

Letter 37 ..... Justine Augustine, Center for Biological Diversity
Letter 38 ..... Peter Baye (Affiliation - FOGR)

Letter 39 ..... Tom Gaman, East-West Forestry Associates, Inc. (Affiliation – FOGR)
Letter 40 ..... Richard Grassetti, Grassetti Environmental Consulting (Affiliation – FOGR)
Letter 41 ..... Chris Poehlmann, FOGR
Letter 42 ..... Peter R. Schmidt, University of Florida
Letter 43 ..... Randall Sinclair
Letter 44 ..... Emilio Valencia, THPO, Kashia Band of Pomo Indians

**COMMENT LETTER SUBMITTED ON THE RECIRCULATED TIMBER HARVEST PLAN**

Letter 45 ..... Betty LeDonne

**AGENCY REVIEW TEAM COMMENTS SUBMITTED ON THE FAIRFAX CONVERSION TIMBER HARVEST PLAN**

As part of the Timber Harvest Plan process, a Pre-Harvest Inspection (PHI) is conducted on the project site. Agency staff represented at the PHI field meetings include those from CAL FIRE (field inspector and archaeologist), California Department of Fish and Game, Regional Water Quality Control Board, and California Geological Survey. The PHI meetings for the Fairfax Conversion project occurred in June 2009 and February 2010. During these field inspections, site conditions were reviewed once again to determine the adequacy of the findings presented in the DEIR and the associated design of the Vineyard Plan, which the DEIR evaluated. The agency review team comments are presented in Letters 1-4 of this section and addressed in the RPF's response to Review Team questions, included in this section as Letter 5.

Letter 1 ..... Charles Armor, California Department of Fish and Game
Letter 2 ..... Cherie Blatt, North Coast Regional Water Quality Control Board
Letter 3 ..... Gerri Finn, California Department of Forestry and Fire Protection (CAL FIRE)
Letter 4 ..... C. Michael Huyette, California Geological Survey
Letter 5 ..... Agency Comments Response Letter from Project Registered Professional Forester (RPF) Jeff Longcrier

## REVISIONS TO VINEYARD PLAN

### Changes to Vineyard Plan since Release of the Draft EIR

As discussed in the Introduction to the Partially Recirculated DEIR, since the release of the DEIR for public review on May 29, 2009, the applicant, in coordination with CAL FIRE, has revised the description of the project for which approval is being sought. These changes were carefully made by the project team primarily as a result of the input on the project by members of the community as well as responsible agencies. As is demonstrated in the below list of changes, the changes to the Vineyard Plan serve to further refine the design of the overall project, resulting in an even greater level of protection of natural resources, though the project's impacts to natural resources, including biological, cultural, and hydrological resources, were adequately determined to be less-than-significant in the Fairfax Conversion DEIR with implementation of all identified mitigation measures. In no instance have the changes resulted in

the identification of new significant environmental impacts, or a substantial increase in the severity of an environmental impact.

The following is a general description of the changes to the Vineyard Plan to date (see Figure 1-1 at the end of this chapter):

- In Unit 1 (comprised of subunits a-d) in the northwestern corner of the project site, archaeology exclusion areas have been added based upon the additional site surveys discussed in detail in Chapter 3.5, *Cultural Resources*, of the Partially Recirculated DEIR. In addition, the corporation yard has been relocated from Unit 1c to Unit 6 in order to address aesthetics concerns expressed by the public in the comments on the DEIR.
- In Unit 2, located immediately east of the proposed reservoir, a redwood cluster, three redwood groves along Patchett Creek, wetlands W26 and W27, and a Class III swale located northwest of the proposed sump have been excluded from the work area based on agency comments during the Timber Harvest Plan on-site inspection.
- In Unit 4, located in the eastern-central portion of the site, archaeological exclusion areas have been added based upon the additional site surveys discussed in detail in Chapter 3.5, *Cultural Resources*, of the Partially Recirculated DEIR.
- In Unit 5, located in the southeastern portion of the site, wetland area W32 has been preserved and archaeological exclusion areas have been added based upon the additional site surveys.
- In Unit 6, located in the central portion of the site, archaeological exclusion areas have been added based upon the additional site surveys and the proposed corporation yard has been relocated here.
- In Unit 7, located in the western-central portion of the site, archaeological exclusion areas have been added based upon the additional site surveys and a single old growth redwood has been preserved above the head of a Class III waterway per agency comments during the Timber Harvest Plan on-site inspection.
- In Unit 8, sub-unit 8c (approximately 9.9 acres) has been removed from the vineyard work area and is subsequently now being avoided (see Chapter 3.5, *Cultural Resources*, of the Partially Recirculated DEIR for further discussion). In addition, approximately 0.6 acres of sub-unit 8b have been removed from the vineyard work area.

These changes, in combination with the above generally discussed changes to the Fairfax Conversion Vineyard Plan, have resulted in an overall smaller vineyard work area. The current statistics for the Fairfax Conversion Project are as follows:

324 acre property
173 acre work area limit
151 acre reserve/set-aside

173 acre work area
146 acre gross vineyard
27 acre non-vineyard

146 acre gross vineyard
116 acre net vineyard
18 acre perimeter avenues
9 acre reservoir, sump
2 acre driveway, roads
1 acre corporation yard

Whereas, the DEIR identified that the applicant would set aside approximately 133 forested acres on the site as permanent open space, part of which would preserve a wildlife corridor running the length of Patchett Creek on the property, the revised Vineyard Plan, as described and illustrated above, would set aside 151 forested acres. Correspondingly, whereas, the DEIR identified a 135-acre net vineyard area, the revised Vineyard Plan includes a reduced vineyard footprint of 116 acres (net). In summary, approximately 46 percent or nearly one-half of the project site will be preserved permanently to protect biological resources.

## Ongoing Northern Spotted Owl Surveys

As discussed in the Draft EIR, the forest habitat conditions on the project site (predominately tan oak with small stands of second growth Douglas fir and redwoods) generally provide very poor habitat conditions for northern spotted owls, which are typically found in old growth Douglas fir (*Pseudotsuga menziesii* var. *menziesii*) and redwood (*Sequoia sempervirens*) forests (See Draft EIR, pp. 3.4-42 – 3.4-46, 3.4-128 – 3.4-129). As stated on page 3.4-4 of the Draft EIR, the north coast coniferous forest on the project site is a second growth forest, and is characterized by relatively small stands of Douglas fir and wide spread growth of tan oak (*Lithocarpus densiflorus* var. *densiflorus*). Redwood, madrone (*Arbutus menziesii*), sugar pine (*Pinus lambertiana*) and California bay (*Umbellularia californica*) trees occur sporadically on the site. The site is also characterized by a dense, brushy understory that colonized the project site immediately after the site was clear-cut (logged). Taller trees are now growing over a persistent brushy understory.

Redwoods are concentrated primarily along the steeper drainages of the project site, and as such, many are protected in stream protection buffers established as part of the proposed project. As the project site was formerly harvested (logged), likely between 1940 and 1960, no "old growth" stand occurs on the site. Two "old growth" redwood trees exist on the site and will be preserved in protected corridors on the project site. These two remaining old growth trees were likely not of timber grade or were otherwise inadvertently overlooked during the early clear-cutting that occurred on the site. Both have multiple tops, a sign of damage early in the tree's lives. Regardless, as unusually large redwood trees on the project site, they are preserved in protection corridors (See the Vineyard Plan, Figure 1-1 of this Final EIR).

Notwithstanding the generally poor habitat conditions on and near the project site, expert biologists have been studying the site for over four years to determine the extent of the northern spotted owl population, if any, in the area (See Draft EIR, pp. 3.4-42 – 3.4-46, 3.4-128 – 3.4-129). The northern spotted owl survey regimen was developed by Mr. Geoff Monk, certified wildlife biologist, in conjunction with other experienced staff from Monk & Associates, Inc. The survey regimen was prepared after walking the entire project site to develop an understanding of the

accessibility opportunities and determining the most likely areas for detections during night time auditory surveys. During the daytime scoping surveys, the biologists also looked for direct and indirect evidence of spotted owl occupation of the project site. Evidence of occupation would include multiple visual sightings of this owl species, responses from calling activities, and/or the presence of pellets, or molt feathers. All larger trees were examined for suitable nesting cavities, and the forest floor where open (the project site is characterized by a brushed-in forest floor) was examined for the presence of white-wash, molt feathers, and other indicators of presence.

Pursuant to USFWS's survey protocols, Monk & Associates biologists conducted auditory (calling) surveys by walking throughout the project site along the forest/meadow edges, along all accessible roadways and paths, and within any stands of (more) mature timber. Electronic recordings that were amplified at designated and random calling stations were provided by the USFWS.[1] As the site was thoroughly logged likely sometime between 1940 and 1960, very little open understory habitat is present on the project site. Rather, there is a thick, brushy condition that now has an enveloping overstory of trees over most of the timbered portion of the project site. Thus, nocturnal accessibility for surveys was limited to a degree by impenetrable brush. Regardless, Monk & Associates' biologists endeavored to reach "most likely areas." This was accomplished by flagging routes through the forest in the daytime to optimal calling positions. During nighttime surveys, Monk & Associates followed flag lines to the established calling stations in areas regarded as "most likely" to support northern spotted owls. Flag lines were followed as quietly as possible using low intensity flashlights. Upon reaching designated calling locations, lights were turned off and then Monk & Associates biologists remained at the calling station quietly for at least 15 minutes prior to commencing with recorded calls. The pre-listening method was actually the most successful method for detections of other owl species on and adjacent to the project site.

When not calling from designated calling stations, other random calling stations along roadways, pathways, and meadow edges, were conducted on foot by pausing at approximately 50 yards intervals and playing various calls of the northern spotted owl. At all calling stations the recording was amplified to a volume that could be heard a minimum of ¼ mile away. During each calling effort, the recording was played for 3 to 7 calls followed by the observer listening for a response for one to five minutes. This process was repeated for at least 15 minutes before moving on to the next calling station. Field notes included weather at the time of each survey, description of survey route, the survey start and stop time and any owl responses or observations. Positions of any owl detections were marked on a project maps.

Northern spotted owl surveys were conducted in 2006 and 2007 within the proposed project area according to USFWS then valid 1992 survey protocol[2] (See Draft EIR, pp. 3.4-128 – 3.4-129). Northern spotted owls were not detected during these surveys. Under that protocol, negative survey results for northern spotted owl were valid for two years after the survey was completed. Accordingly, the negative findings of the 2006 and 2007 surveys remained valid through 2009. Monk & Associates therefore again conducted northern spotted owl surveys on the project site in 2010 and 2011 (See Draft EIR, p. 3.4-45).

[1] http://www.fws.gov/oregonfwo/Species/Data/NorthernSpottedOwl/Recovery/Library/Default.aspx#Files
[2] USFWS (U.S. Fish and Wildlife Service) 1992. *Protocol for Surveying Proposed Management Activities that may Impact Northern Spotted Owls*. March 7, 1991. Revised March 17, 1992.

On February 23, 2010, the USFWS published a revised northern spotted owl survey protocol.[3] In accordance with the revised 2010 survey protocol, Monk & Associates' biologists completed seven northern spotted owl surveys (six nocturnal surveys and one diurnal stand search) in 2010. Northern spotted owls were not detected on or in the vicinity of the project site during those surveys.

The biologists confirmed the Draft EIR's conclusion that suitable conditions for resident northern spotted owls do not occur on the project site, and that spotted owls do not use the project site now and are unlikely to use the project site in the near future (See Draft EIR, p. 3.4-129)[4]. As presented in the Draft EIR, northern spotted owls typically require closed canopy forest that supports a relatively open understory. These owls are relatively weak fliers and do not readily maneuver through heavy understory cover; nor do they typically crash through heavy brush in pursuit of prey. Optimal conditions for northern spotted owls include old growth forests, which typically are characterized as having relatively open understories, and edge communities around such forests. The project site contains no such resources. Habitat conditions do not provide nesting or foraging conditions that would support northern spotted owls (See Draft EIR, pp. 3.4-128 – 3.4-129).

Owing to heavily brushed understories and second growth conditions, neither the project site, nor the areas immediately surrounding the project site, support habitat that would be suitable for occupation by northern spotted owls. Northern spotted owls were not detected on the project site over the four years of protocol surveys. Protocol surveys continued in 2011 using USFWS' final revised survey protocol[5]. Seven required surveys (six nocturnal and a daytime stand survey) were completed by August 2011 within the required timeframes for completing surveys. Northern spotted owls were not detected on the project site. A nocturnal survey in July 2011 detected a northern spotted owl in the vicinity southwest of the project site. This owl was called from a

[3] USFWS (U.S. Fish and Wildlife Service). 2010. *Draft Protocol for Surveying Management Activities That May Impact Northern Spotted Owls*. February 18, 2010.

[4] Specifically, the Draft EIR (p. 3.4-129.) states:

> Monk & Associates concludes that spotted owls do not use the project site now, nor are they likely to use the project site in the near future. Similarly, owing to extensive disturbance (i.e., vineyards, orchard, timber harvesting, and rural residential forest clearing) Monk & Associates biologists concluded that the northern spotted owl would also be unlikely to occupy habitats immediately adjacent to the project site. Regardless, there are two known northern spotted owl territories located in heretofore unharvested timber areas south of the project site. Territory #SON0043 was last recorded in 2007 and is approximately 0.7-mile south of the project site. Territory #SONOO58 was first recorded approximately 1.3 miles southwest of the project site in 1998. In 2007, this owl had reportedly moved 0.7-mile southwest of the project site. Thus, while the proposed project would not impact this owl species owing to the nearness of records and the mobility of this owl, mitigation measures are presented to ensure that no significant impacts occur to this owl from the proposed project and to otherwise ensure the proposed project complies with the Forest Practices Act. Since this owl is known from the region of the project site within 0.7-mile of the project site, and thus could move onto the project site in the future, impacts to the northern spotted owl are regarded as ***potentially significant***.

[5] USFWS (U.S. Fish and Wildlife Service). 2011. *Protocol for Surveying Management Activities That May Impact Northern Spotted Owls*. February 2, 2011.

known "activity center"[6] located southwest of the project site (SON0043 and SON0058) (See Draft EIR, p. 3.4-43). After initial detection of this northern spotted owl in July 2011, two subsequent surveys without a follow-up detection demonstrated that northern spotted owls had not established a new activity center any closer to the project site than the existing known activity centers 0.7 miles southwest of the project site. Accordingly, the proposed project as mitigated would have "no effect" on the northern spotted owl pursuant to the state and federal Endangered Species Acts (See Draft EIR, pp. 3.4-128 – 3.4-133).

After reviewing project site maps and updated survey data, CAL FIRE biologist Mr. Robert Motroni concluded that it appeared that no new activity center had been established any closer to the project site than the existing known activity centers 0.7 miles southwest of the project site (sites SON0043 and SON0058). CAL FIRE also concluded that the proposed project would have "no effects" on the northern spotted owl; however, CAL FIRE requested that Monk & Associates seek technical assistance with the USFWS to confirm this conclusion.[7]

On September 12, 2011, Monk & Associates' biologist Mr. Geoff Monk and North Coast Resource Management biologist Mr. Jeff Longcrier met with Mr. Steve Krammer and Mr. Bill McIver of the USFWS to examine the northern spotted owl survey data and findings. Both Mr. Krammer and Mr. McIver are experts with northern spotted owls and routinely consult with CAL FIRE regarding timber harvest plans. Like CAL FIRE biologist Mr. Robert Motroni, Mr. Krammer concluded that "USFWS would not consider this an effect project," and also that USFWS "did not have a lot of concern" regarding impacts to the northern spotted owl based upon their preliminary review of the survey data.[8] They concluded that the survey data shows that no new activity center has been established any closer to the project site than the existing known activity centers 0.7 miles southwest of the project site. Mr. Krammer requested that Monk & Associates send in the full survey report and include descriptions of the habitat to be removed. In addition, USFWS stated that the project should include "Spot Check Surveys" (follow-up) in survey years 3 and 4 (consisting of three nighttime surveys covering spotted owl habitat within a 0.25 mile radius of the project area) conducted pursuant to the 2011 Northern Spotted Owl Survey Protocol. If a northern spotted owl subsequently establishes an activity center on or nearer to the project site than 0.7-miles then verification of adequate nesting and roosting habitat would be required and would be verified through further consultation with the USFWS.[9]

Because Spot Check surveys are a requirement of the 2011 protocol, they were not identified in the Draft EIR circulated in 2009. Spot Check Surveys pursuant to the 2011 protocol are included in

[6] "Activity Center" is defined in the USFWS's *2011 Protocol for Surveying Proposed Management Activities that May Impact Northern Spotted Owls* as follows: This area represents the area surrounding concentrations of 'the best of' detections such as nest stands, stands used by roosting pairs or territorial singles, or areas of concentrated nighttime detections."

[7] Personal communication between Geoff Monk of Monk & Associates, Jeff Longcrier of North Coast Resource Management, and Robert Motroni and Dennis Hall of CAL FIRE, Sacramento, California, August 30, 2011.

[8] Personal communication between Geoff Monk of Monk & Associates, Jeff Longcrier of North Coast Resource Management, and Steve Krammer and Bill McIver of the USFWS, Arcata, California, September 12, 2011.

[9] Personal communication between Geoff Monk of Monk & Associates, Jeff Longcrier of North Coast Resource Management, and Steve Krammer and Bill McIver of the USFWS, Arcata, California, September 12, 2011.

this Final EIR (See Chapter 4, Mitigation Monitoring Plan), and Mitigation Measure 3.4-4 is updated as follows:

**Mitigation Measure(s)**

Implementation of the following mitigation measures will ensure that the proposed project would not result in take of the northern spotted owl. Accordingly, implementation of the measures below would reduce impacts to the northern spotted owl to levels regarded as *less-than-significant* (strike-through and underline changes show revisions to these measures since the release of the DEIR for public review).

*3.4-4(a) While a single year of survey can be conducted pursuant to the USFWS's 1992 survey protocol (USFWS 1992a), in this protocol the USFWS encourages completion of a two-year survey "to provide a higher likelihood of accurately determining presence or absence of spotted owls." No northern spotted owls were detected during the two-year ~~survey~~ protocol survey conducted on the project site in 2006 and 2007 pursuant to the USFWS' 1992 survey protocol. Pursuant to ~~the USFWS'~~ this survey protocol ~~(USFWS 1992a)~~, completion of a two-year survey with negative results ~~indicates that the project site does not have to be surveyed again for two more years~~ remains a valid finding for two years after the survey is completed. Thus, if timber harvesting ~~begins~~ had begun prior to 2010, no further surveys ~~are~~ would have been necessary pursuant to the 1992 protocol. However, ~~as the northern spotted owl is a mobile species, out of an abundance of precaution, if timber harvesting or site grading commences before 2010, a pre-disturbance northern spotted owl survey shall be completed in the 30 day period prior to site disturbance. If timber harvesting commences in 2010 or in later years, a second set of full protocol level surveys shall be required prior to the commencement of site disturbance.~~ because timber harvesting will commence in 2012 or in later years, a second set of full protocol-level surveys was conducted pursuant to the Draft 2010 Northern Spotted Owl Survey Protocol in 2010 and in accordance with the final revised 2011 Northern Spotted Owl Survey Protocol in 2011. No northern spotted owls were found on the project site in 2010 or 2011. Pursuant to the 2011 Northern Spotted Owl Survey Protocol, and consistent with the recommendations of the USFWS in this protocol, "Spot Check Surveys" shall be conducted in survey years 3 (2012) and 4 (2013) in order for the negative survey findings to remain valid in years 2012 and 2013. Spot Check Surveys are defined in the USFWS' 2011 protocol as 3 nighttime surveys within a 0.25 mile radius of the project area. Negative survey findings from the 2010 and 2011 surveys that were conducted pursuant to the 2011 Northern Spotted Owl Survey Protocol, with spot check surveys in years 3 and 4 that are also negative, will validate negative survey findings through 2013. Should timber harvesting commence in 2014 or in later years, a second set of full protocol-level surveys will be conducted pursuant to the 2011 Northern Spotted Owl Survey Protocol or any revision to this protocol in place after 2013.*

3.4-4(b) *Current survey information indicates that at this time there are no impacts that are expected to occur to the northern spotted owl. Regardless, as required to comply with the Forest Practices Act as detailed at 14 CCR § 919.9, the following habitat protection measures shall be established to protect the northern spotted owl if in subsequent years ~~any~~ northern spotted owls ~~is detected during subsequent surveys.~~ establish an activity center closer than 0.7 mile of the project site.*

***Habitat Protection Measures***

*The following definitions shall be used when evaluating impacts to the northern spotted owl:*

***1. Definitions of nesting-roosting and foraging habitat.***

*a. Nesting-Roosting Habitat includes the following:*

*A. ≥60% canopy cover of trees ≥11 inches diameter at breast height (dbh).*

*b. Foraging Habitat includes the following:*

*A. ≥40% canopy cover of trees 11 inches dbh.*

*B. Basal area = ≥75 ft2/acre of trees ≥11 inches dbh.*

***2. Priority Ranking of Habitat Retention Areas.***

*a. Tree Species Composition. Mixed conifer stands should be selected over pine-dominated stands.*

*A. Abiotic Considerations include the following:*

*i. Distance to Nest.*

*I. Nesting-roosting and foraging habitat should be located closest to identified nest tree(s), or closest to roosting tree(s), if no nesting trees are identified.*

*ii. Contiguity.*

*I. Nesting-roosting habitat within the 0.5-radius circle around an activity center must be as contiguous as possible.*

*II. Fragmentation of foraging habitat must be minimized as*

*much as possible.*

*iii. Slope Position.*

*I. Habitats located on the lower one-third of slopes provide optimal microclimatological conditions and an increased potential for the presence of intermittent or year-round water resources.*

*iv. Aspect.*

*I. Habitats located on northern aspects provide optimal vegetation composition and cooler site conditions.*

*v. Elevation.*

*I. Habitat should be located at elevations of less than 6000 feet, although the elevation of some activity centers (primarily east of Interstate 5) may necessitate inclusion of habitat at elevations greater than 6000 feet.*

***3. Habitat Quantities.***

*a. Within 1000 feet of each activity center:*

*A. Outside of the breeding season (August 1 through January 31), no timber operations shall occur within 1000 feet of an activity center other than use of existing roads.*

*B. During the breeding season (February 1 through July 30), no timber operations shall occur within 1000 feet of an activity center other than use of existing, permanent, year-round roads.*

*b. Within 0.7-mile radius (1000 acres) of, and centered on, each activity center:*

*A. Habitat shall be retained to maximize attributes desirable for NSOs described in (2) above.*

*B. At least 500 acres of suitable habitat must be present, as follows:*

*i. 200 acres of nesting-roosting habitat.*

*I. No timber harvest shall occur within the 100 acres of nesting-roosting habitat immediately surrounding each*

*activity center.*

*II. If the remaining 100 acres of nesting-roosting habitat is contiguous with the activity center or is located within the same drainage, harvest shall not reduce the pre-harvest basal area of these acres by more than 33%.*

*III. If the remaining 100 acres of nesting-roosting habitat is not contiguous with the activity center or is not located within the same drainage, ≥60% canopy cover of trees ≥11 inches dbh shall be retained.*

*ii. ≥300 acres of foraging habitat.*

*C. No more than 1/3 of the remaining suitable habitat shall be harvested during the life of the plan.*

*c. Between the 0.7-mile and 1.3-mile radius circles centered on each activity center:*

*A. Retention of habitat should follow the ranking guidelines contained in (2) above.*

*B. ≥836 acres of suitable habitat must be present.*

*C. No more than 1/3 of the remaining suitable habitat shall be harvested during the life of the plan.*

*If there is a deficit of any habitat quantities pre harvest, operations within that habitat type shall not reduce or degrade the amount or quality of that habitat.*

***Operational Protection Measures***

- *Helicopter yarding within 0.5 miles of an NSO activity center is prohibited between February 1st and August 31st.*

- *No timber harvest operations shall occur until such time as CAL FIRE has reviewed all survey and habitat information required by 919.9(g) (provided in Section V of the THP) and has determined pursuant to 14 CCR 919.10 that take of an NSO will not occur. Any change in timber operations that results from a change in location, or the discovery, of an NSO after plan approval will have to be incorporated into the plan through the amendment process per 14 CCR §§ 1039, 1040, 1090.24, 1090.25 and 1092.27. CAL FIRE will treat such a change in timber operations as a minor or substantial amendment, depending on the extent of the change.*

> *If in subsequent years surveys are again completed and northern spotted owls are found nesting in the trees on or immediately adjacent to the project site, or subsequent credible information becomes available that demonstrates that the northern spotted owl could be affected by the proposed project pursuant to the Forest Practices Act, the mitigation measures above shall be implemented. In addition, the applicant will consult with USFWS and any additional restrictions or mitigation measures imposed by this agency will become conditions of project approval.*

As explained in the Draft EIR, survey requirements are ongoing, and if a northern spotted owl subsequently establishes an activity center on or nearer to the project site than 0.7-miles, then verification of adequate nesting and roosting habitat would be required and would be verified through further consultation with the USFWS (Draft EIR, pp. 3.4-129 – 3.4-133). Establishment of a new northern spotted owl activity center is speculative and unlikely based on existing poor quality habitat conditions, barred owl activity in the vicinity, and other factors as described in the EIR. In short, although an incidental sighting of a northern spotted owl occurred southwest of the project site in a July 2011 survey, subsequent surveys showed that the owl was not a resident and had not established an activity center. This owl was called from a known "activity center[10]" located approximately 0.7 miles southwest of the project site (SON0043 and SON0058). Two subsequent surveys after initial detection of this northern spotted owl without a follow-up detection demonstrated that northern spotted owls had not established a new *activity center* any closer to the project site than the existing known activity centers 0.7 miles southwest of the project site.

Nothing in the updated survey information warrants any modification of the conclusions in the Draft EIR. Updated survey information demonstrates that the proposed project will not result in significant adverse impacts to the northern spotted owl. As such, no additional mitigation measures are warranted for this species. As no new or substantially more severe environmental impacts associated with northern spotted owls have been identified, recirculation of the EIR is not required (CEQA Guidelines, § 15088.5).

[10] Activity Center is defined in the USFWS's *2011 Protocol for Surveying Proposed Management Activities that May Impact Northern Spotted Owls* as follows: This area represents the area surrounding concentrations of 'the best of' detections such as nest stands, stands used by roosting pairs or territorial singles, or areas of concentrated nighttime detections."

**Figure 1-1**
**Current Fairfax Conversion Vineyard Plan**

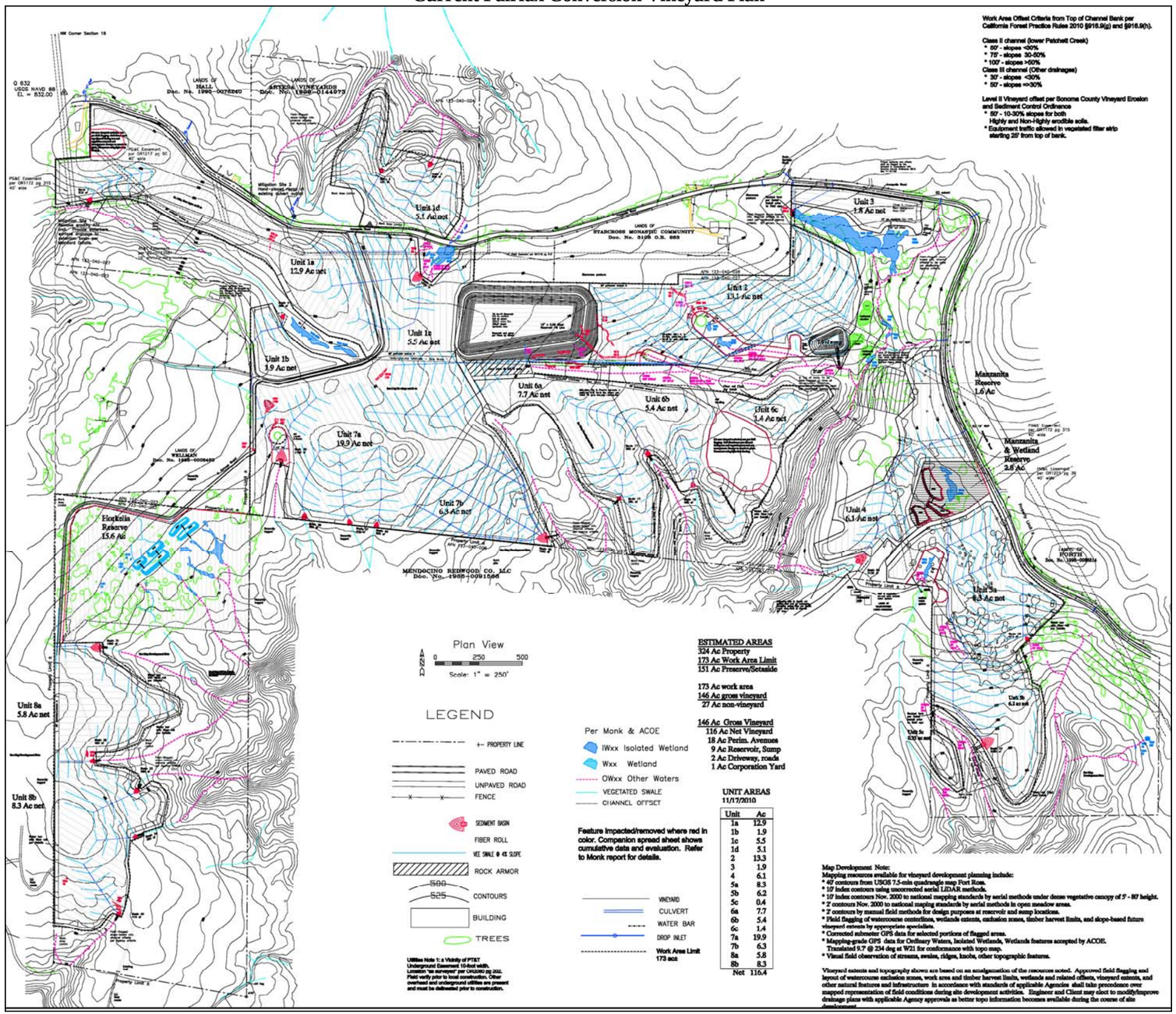


**Figure 1-1 Cont'**
**Current Fairfax Conversion Vineyard Plan**

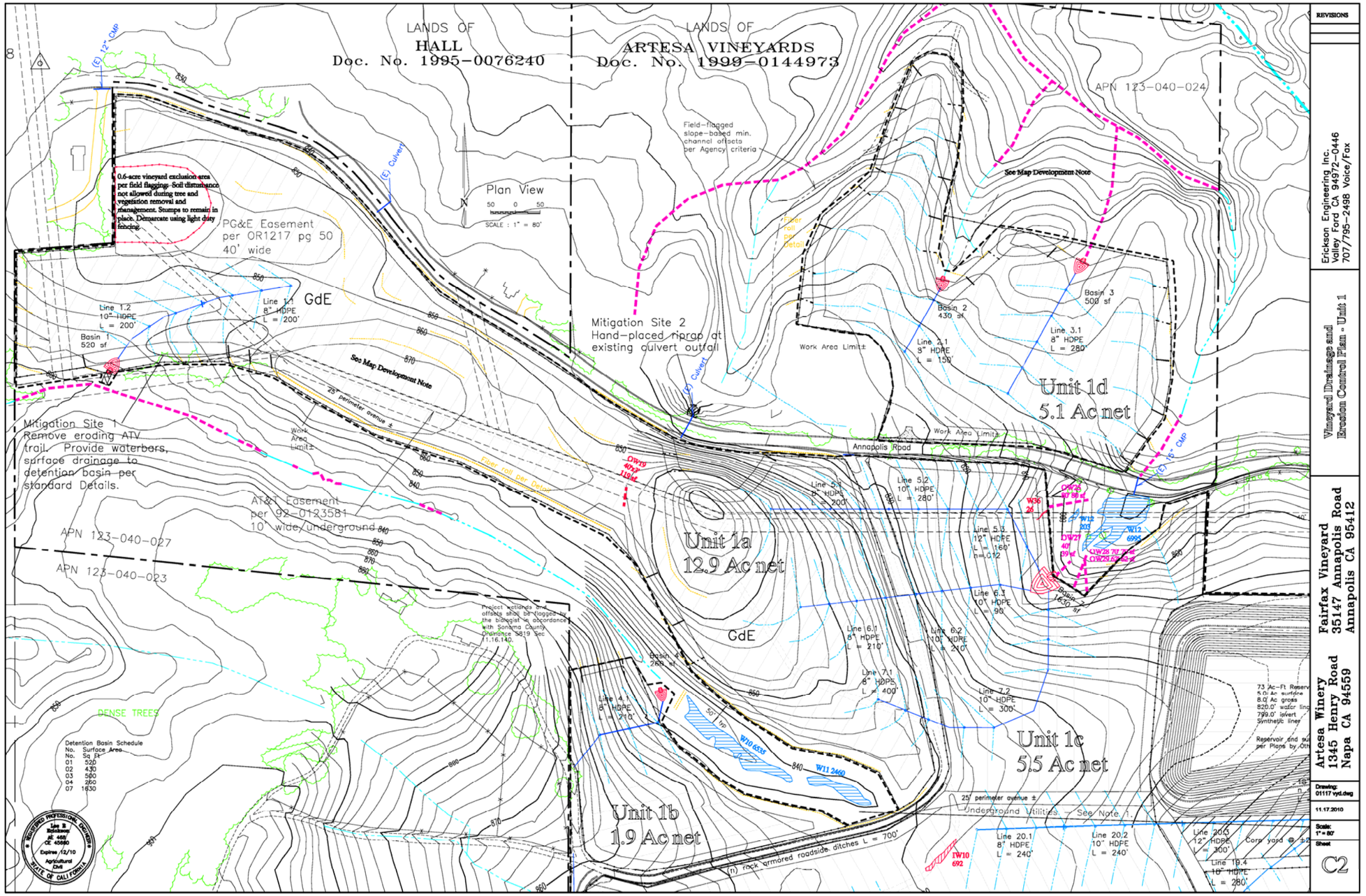
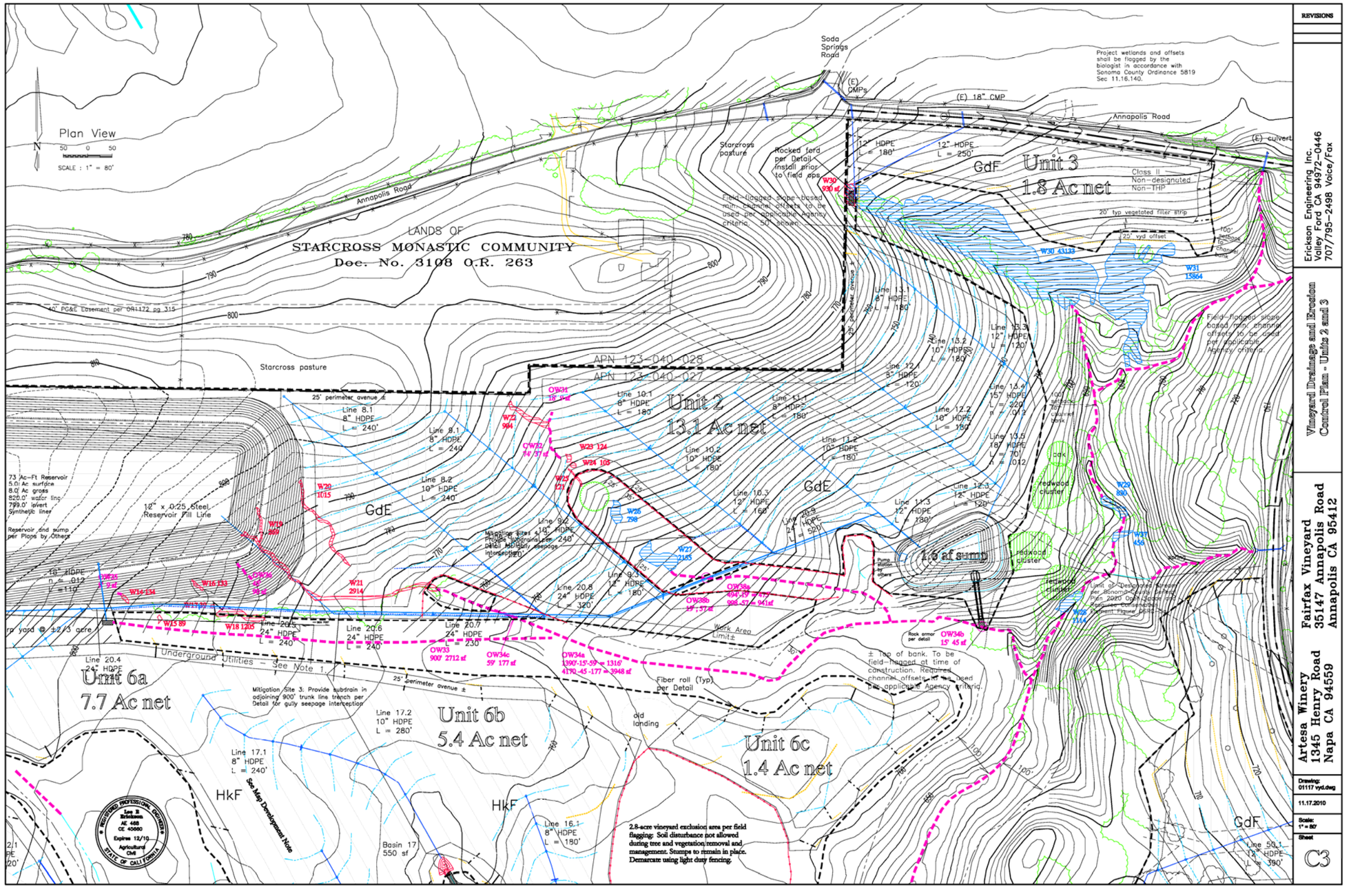


**Figure 1-1 Cont'**
**Current Fairfax Conversion Vineyard Plan**



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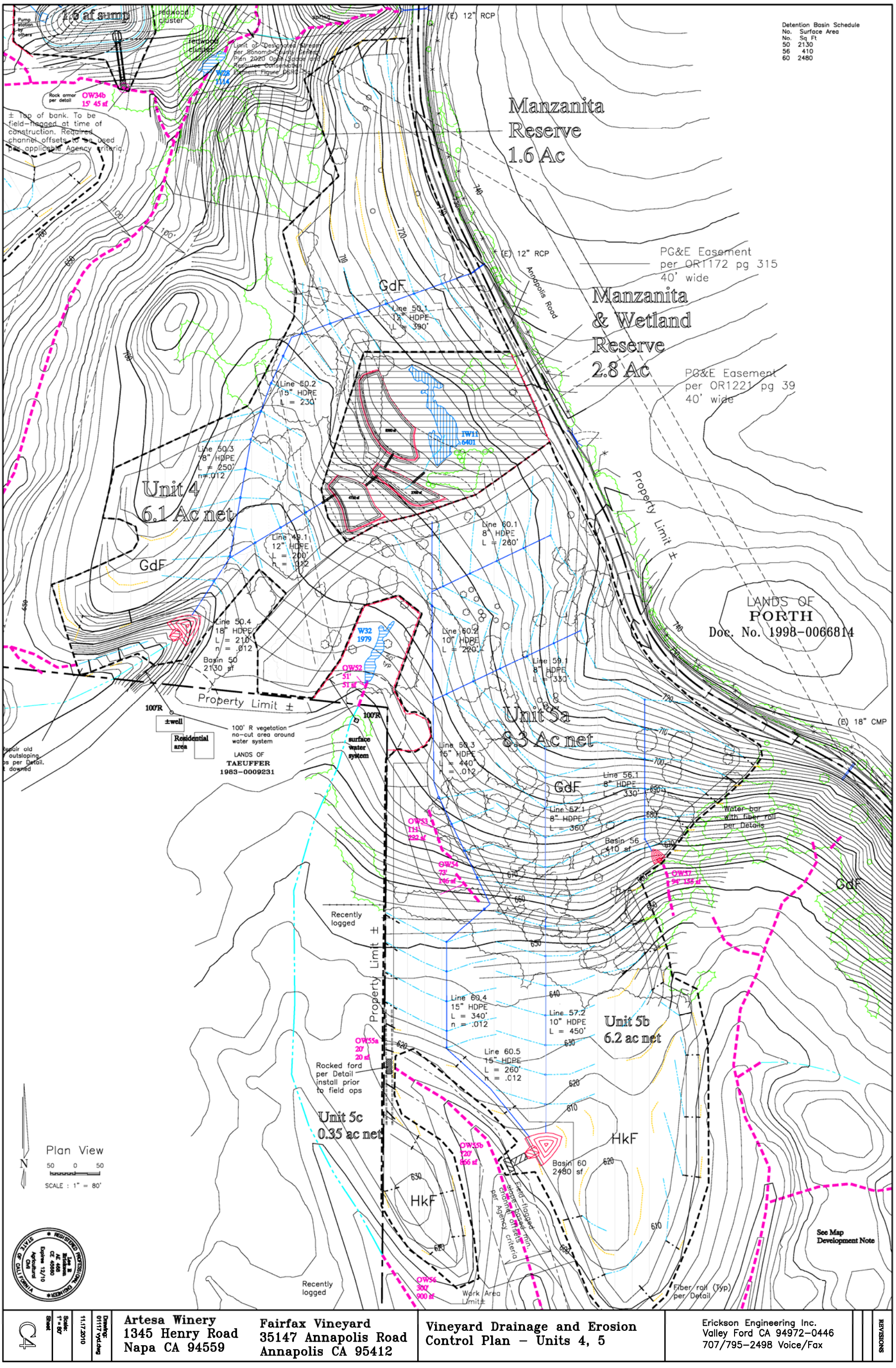

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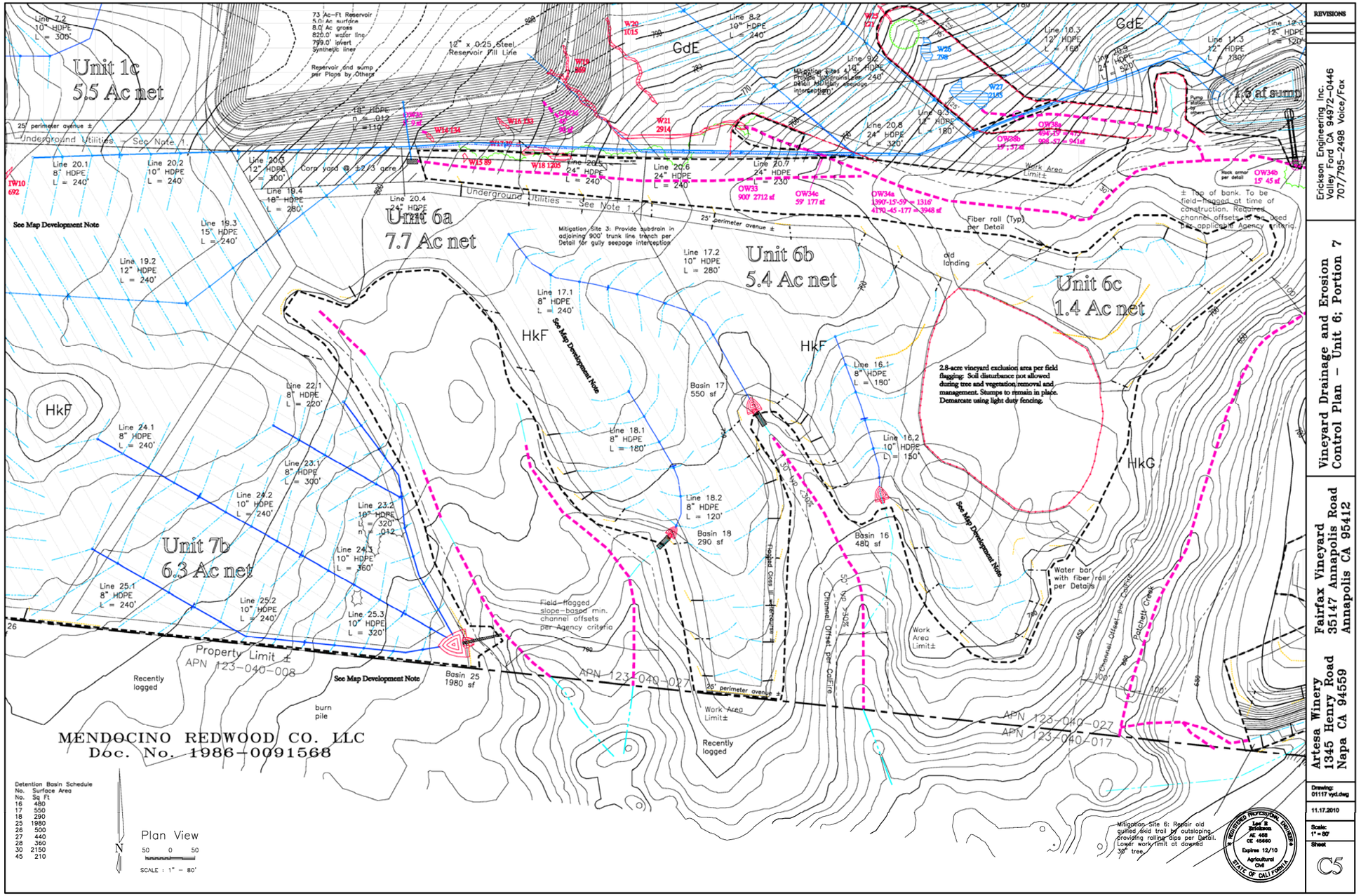

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